

JUL 19 2006

Application No: 10/500,550
Attorney's Docket No: NL 020004REMARKS/ARGUMENTS

Applicant acknowledges receipt of the Office Action dated 04/19/2006. Claims 1-10 were pending in the application. Claims 1 and 3-10 are presented for reconsideration and further examination in view of the following remarks and arguments.

Applicant initially notes that the Examiner indicated in the Office Action that claims 2 and 5-7 would be allowable if rewritten in independent form including all the limitations of their base claim and any intervening claim. Applicant thanks the Examiner for this indication of allowable subject matter.

Applicant notes that, as further discussed below, claims 2 and 5-7 are included in the rejection under 35 U.S.C. § 101. However, the Office Action indicates that claims 2 and 5-7 would be allowable if rewritten in independent form including all of the limitations of their base claim 1, and intervening claims 3 and 4, respectively, without further requiring that they be amended to overcome the rejection under 35 U.S.C. § 101.

The courtesies extended to Applicant's representative by Examiner Yang at the telephone interview held July 19, 2006, are appreciated. The reasons presented at the interview as warranting favorable action are incorporated into the Remarks below and constitute Applicant's record of the interview. Examiner Yang is thanked for clarifying that claims 2 and 5-7 must be amended to overcome the rejection under 35 U.S.C. § 101 in order to be allowed. Thus, as described in greater detail below, claims 2 and 5-7 are not only rewritten in independent form including all of the limitations of base claim 1, and intervening claims 3 and 4, respectively, but also to overcome the rejection under 35 U.S.C. § 101.

By this Response and Amendment independent claim 1 has been amended to include allowable subject matter set forth in claim 2, thereby obviating its rejections under 35 U.S.C. § 102(e); claims 9 and 10 have also been amended to include allowable subject matter set forth in claim 2, thereby obviating their rejection under 35 U.S.C. § 102(e); and claim 2 has been canceled.

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Claims 1 and 3-10 have also been amended to clarify what Applicant regards as his invention, and as amended, the rejection of claims 1-8 under 35 U.S.C. § 101 is respectfully traversed; the rejection of claims 1, 3-4 and 9-10 under 35 U.S.C. § 102 is respectfully traversed; and the rejection of claim 8 under 35 U.S.C. § 103 is also respectfully traversed.

Specification

The Examiner objected to the Specification because of a lack of appropriate section headings. The specification has been amended accordingly, thereby rendering this objection moot. Withdrawal of the objection is therefore respectfully requested.

Rejections under 35 U.S.C. § 101

The Examiner rejected claims 1-8 under 35 U.S.C. § 101 as being directed to non-statutory subject matter.

Claims 1, 6 and 7 have been amended to now recite that the three-dimensional model is a representation of a three-dimensional scene, which can be viewed by a human viewer, thereby obviating the rejection under section 101.

The test for determining whether an invention is directed to statutory subject matter under 35 U.S.C. § 101 is whether the claimed invention as a whole accomplishes a practical application (MPEP 2106). As noted by the Court of Appeals for the Federal Circuit in *State Street*, 47 USPQ2d at 1601-02 (Fed. Cir. 1998), the claimed invention must produce a "useful, concrete and tangible result."

As originally and presently claimed, the present invention is directed to a method of scaling a three-dimensional model representing a three-dimensional scene, a scaling unit for scaling said three-dimensional model and an image display apparatus comprising said scaling unit.

Applicant submits that the method of scaling a three-dimensional model representing a three-dimensional scene set forth in independent claims 1, 6 and 7 produces a useful, concrete and tangible result. This result can be displayed by the image display apparatus set forth in

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independent claim 10 and can be physically perceived by human senses. Applicant submits that the method of scaling a three-dimensional model set forth in claims 1, 6 and 7 is not "a process that consists solely of the manipulation of an abstract idea," but instead takes a first physical entity and applies a multi-step process to a mathematical representation of that first physical entity in order to generate a second physical entity.

Applicant therefore submits that the method recited in claims 1, 6 and 7 is directed to statutory subject matter, and that claims 1, 6 and 7, and consequently dependent claims 3-5 and 8 as well, comply with the requirements of 35 U.S.C. § 101. Accordingly, reconsideration and withdrawal of their rejections is respectfully requested.

Rejections under 35 U.S.C. § 102

The Examiner rejected claims 1, 3-4 and 9-10 under 35 U.S.C. § 102(e) as being anticipated by Sullivan et al. (US PG Pub 2002/0113752), hereinafter noted "Sullivan."

Applicant respectfully traverses the rejection.

Claims 1, 9 and 10 have been amended to incorporate allowable subject matter previously recited in claim 2. Therefore, Applicant submits that claims 1, 9 and 10 are now patentable over Sullivan. Accordingly, reconsideration and withdrawal of their rejection is respectfully requested.

Claims 3 and 4 depend from claim 1 and are therefore patentable over Sullivan for at least the same reason that claim 1 is patentable thereover. Accordingly, reconsideration and withdrawal of their rejection is respectfully requested.

Rejections under 35 U.S.C. § 103

The Examiner rejected claim 8 under 35 U.S.C. § 103(a) as being obvious over Sullivan.

Applicant respectfully traverses the rejection.

Applicant incorporates herein by reference the arguments presented above against the rejection of claims 1, 12 and 13 under 35 U.S.C. § 102 over Sullivan. Claim 8 depends from claim 1 and is therefore patentable over Sullivan for at least the same reason that claim 1 is

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patentable thereover. Accordingly, reconsideration and withdrawal of the rejection of claim 8 is respectfully requested.

While we believe that the instant amendment places the application in condition for allowance, should the Examiner have any further comments or suggestions, it is respectfully requested that the Examiner telephone the undersigned attorney in order to expeditiously resolve any outstanding issues.

In the event that the fees submitted prove to be insufficient in connection with the filing of this paper, please charge our Deposit Account Number 50-0578 and please credit any excess fees to such Deposit Account.

Respectfully submitted,
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